In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.R.No.1144 of 2007 (O&M)
Decided on March 02,2007.

G.K.Traders, Alwalpur and another --- Petitioners

vs.

Sarvjit Singh Sodhi -- Respondent.

Present: Ms. Swati Gupta, Advocate, for the petitioners

Pritam Pal,J: (Oral)

This Civil Revision, by the petitioners has been filed against impugned order dated December 11,2006, passed in execution of money decree dated December 22,2004, whereby their objections filed before the Executing Court, were dismissed.

The only noticeable point of arguments raised by learned counsel for the petitioners is that the petitioners, who were judgment debtors in the main suit for recovery, were not allowed to file the written statement and not only that the witnesses of the respondent/plaintiff (decree holder), were also not allowed to be cross examined. It was then also argued that at present, the appeal against the judgment and decree dated December 22,2004, is still pending before the learned District Judge, Gurdaspur. So, the execution of the money decree is liable to be stayed. In support of his argument, learned counsel has

relied upon following catena of judgments:-

S.P.Chengalvaraya Naidu (Dead) By LRs Vs. Jagannath (Dead) By LRs and others (1994)1 Supreme Court Cases 1,

Mehar Singh and Ors v. Firm Pakher Singh & Ors 2003 (3) Civil Court Cases 686 (P&H) and

Santokh Singh v. Amar Kaur and others 2006 (3) RCR (Civil) 67.

A perusal of the judgment and decree of the learned trial Court , goes a long way to show that in fact, the petitioners had failed to file written statement well in time and as such, their defence was struck off as per the provisions of Code of Civil Procedure . It is further apparent that thereafter, an opportunity was also granted to the petitioners' counsel to cross examine the witnesses of the plaintiff/respondent (decree holder) ,but inspite of that ,no cross examination was conducted upon the witnesses of the plaintiff/respondent.

I have also gone through the above rulings cited by learned counsel for the petitioners and find that the facts contained therein are quite at variance from the facts of the case in hand and hence, no benefit can be derived by the learned counsel for the petitioners from the observations made therein by their Lordships.

In view of my foregoing discussion, this Court does not find any illegality or irregularity in the impugned order whereby objections of the petitioners filed during the execution of the decree were dismissed. Hence, this Civil Revision is hereby dismissed.

Before parting with this order, it is made clear that nothing contained herein, shall be taken to be an expression of opinion of this court on the merits of the appeal arising out of the impugned judgment

and decree dated December 22,2004, which is stated to be pending before the learned first Appellate Court. It is further clarified that the learned first Appellate Court , without being influenced by this order of mine, shall be at liberty to decide the appeal as well as injunction application, if any, in accordance with law.

March 02,2007 (Pritam Pal)
RR Judge